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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Feb 03, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANDREW STAWICKI,
Plaintiffs,
v.
CLAYTON MYERS, STEPHEN
PANITTONI, and DIRK KIVI,
Defendants.

CASE NO: 1:24-CV-3013-TOR
ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT

BEFORE THE COURT is Defendants' Motion for Summary Judgment. ECF
No. 7. Plaintiff did not file a response. The Court reviewed Defendants' motion
and grants summary judgment.

DISCUSSION

The Prison Litigation Reform Act requires Plaintiff to exhaust his
administrative remedies before filing suit. No action shall be brought with

1 respect to prison conditions under section 1983 of this title, or any other Federal
2 law, by a prisoner confined in any jail, prison, or other correctional facility until
3 such administrative remedies as are available are exhausted. 42 U.S.C. § 1997e(a).
4 Under the Act, the exhaustion requirement is mandatory; the Act does not afford
5 the Court discretion to disregard the exhaustion requirement. *Porter v. Nussle*, 534
6 U.S. 516, 524 (2002). Here, Plaintiff has not exhausted his administrative
7 remedies so his federal allegations must be dismissed.

8 Plaintiff's state law claims are barred by his failure to present a tort claim
9 notice. A condition precedent to commencing any lawsuit against a local
10 government entity – specifically, the party wanting to commence a lawsuit must
11 present a tort claim notice to the target local government entity and then wait 60
12 days before commencing suit. RCW 4.96.010-020. Plaintiff has failed to present a
13 tort claim notice to Kittitas County Auditor prior to commencing this suit. Thus,
14 Plaintiff's state law claims are dismissed.

15 Finally, Plaintiff has not updated his current mailing address as required.

16 **ACCORDINGLY, IT IS ORDERED:**

- 17 1. Defendants' Motion for Summary Judgment, ECF No. 7, is **GRANTED**.
- 18 2. This action is **DISMISSED**.
- 19 3. All deadlines, hearings, and trial are **VACATED**.

1 The District Court Executive is directed to enter this Order and Judgment of
2 Dismissal, furnish copies to the parties, and **CLOSE** the file.

3 **DATED February 3, 2025.**



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THOMAS O. RICE
United States District Judge